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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,733	03/29/2004	Jeffrey A. Klein	KLEIN-084B	1689

7663 7590 12/26/2007  
STETINA BRUNDA GARRED & BRUCKER  
75 ENTERPRISE, SUITE 250  
ALISO VIEJO, CA 92656

EXAMINER
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BERTHEAUD, PETER JOHN

ART UNIT	PAPER NUMBER
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3746

MAIL DATE	DELIVERY MODE
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12/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,733	<b>Applicant(s)</b> KLEIN, JEFFREY A.	
	<b>Examiner</b> Peter J. Bertheaud	<b>Art Unit</b> 3746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is in response to Amendments filed 10/29/2007. It is noted that claims 1, 7-9, 12, and 15 have been amended and claims 22-28 have been cancelled.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 15-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 15, the newly amend portion of line 5 which now reads "a mechanical sensor in communication with the rollers," is not described in the specification or shown in the drawings. The sensor 60 in the present application was only ever described as being "in mechanical communication with the peristaltic pump" (para. 32). The term mechanical sensor is far more limiting, and thus, not supported by the specification.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blugerman 5,447,493 in view of Holtorf 6,260,434, in further view of Faeser 4,544,336.

Blugerman discloses an infiltration apparatus comprising: a cannula 14; a flexible tubing 13, connecting to one end of the cannula 14; a peristaltic pump 11 comprising a pathway (see wall 26) for the flexible tubing to extend through and a plurality rollers 25A-C installed along the pathway to direct flow direction of fluid flowing through the flexible tubing 13; a container 12, in fluid communication with the cannula 14 via the flexible tubing 13 extending through the peristaltic pump 11; and a foot pedal 16, connected to the peristaltic pump 11 via a line (see line connecting pedal 16 to pump 11 in Fig. 1), the foot pedal 16 being operative to control operation of the peristaltic pump 11 (see col. 5, lines 39-41). Blugerman further discloses that the peristaltic pump further comprises a rotation mechanism 20 driving the rollers 25A-C to rotate clockwise (see Fig. 2B) or counterclockwise (see Fig. 2A). However, Blugerman does not teach the following claimed limitations taught by Holtorf and Faeser.

Holtorf (Fig. 4) teaches a dual position foot pedal for a surgery apparatus comprising a foot pedal 10 connected by a pneumatic line 14 to a console 16. Holtorf further teaches that the foot pedal may deliver one pulse of air to a control air inlet in the console (see col. 3, lines 44-47 and col. 4, lines 1-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Blugerman, by implementing a pneumatic foot pedal in order

to transmit information from the foot pedal to the peristaltic pump without the use of electrical wiring (Holtorf, col. 3, lines 44-47).

Faesar teaches a peristaltic pump comprising rollers 6, a rotation mechanism 5, and flexible tubing 1. Faeser further teaches that the plurality of rollers 6 are non-conducting (i.e. hard rubber, inherently non-conductive; see col. 4, lines 17-18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Blugerman, by using non-conductive rollers in order to reduce the weight and the noise generated by the pump.

6. Claims 2-5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blugerman 5,447,493 in view of Holtorf 6,260,434, in further view of Faeser 4,544,336, and in further view of Reimels 5,580,347.

Blugerman in view of Holtorf and Faeser teaches the invention as discussed above, but does not teach the following claimed limitations taught by Reimels.

Reimels teaches a system for performing surgery comprising a peristaltic pump 30, a foot pedal 14, and a handpiece 10. Reimels further teaches a sound generating device 134 in electrical communication with a sensor 114. Reimels also teaches that the sound generating device 134 is capable of generating a sound with a frequency increasing or decreasing in proportion to a speed of the pump 30 or variable with the fluid flow rate (see col. 10, lines 41-46). Reimels further teaches that the foot pedal 14 under a momentary mode is operative to switch on the peristaltic pump 30 while being depressed and switch off the peristaltic pump while being released (see col. 5, lines 58-59). Reimels also teaches that a foot pedal 20 under a continuous mode is operative to

switch on and off the peristaltic pump by alternate depression (see col. 2, lines 46-48 and col. 10 lines 58-62, specifically in reference to foot pedal 20). Reimels further teaches that the foot pedal 14 is capable of adjusting the flow rate of the fluid by controlling duration of depression applied thereto; wherein the flow rate of the fluid could be proportional to the duration of depression applied to the foot pedal 14. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Blugerman in view of view of Holtorf and Faeser, by having multiple modes of operation and a sound generating device in communication with a sensor in order to control the fluid discharge of the pump and to provide an indication to the surgeon of the flow rate of the fluid in the system (Reimels, col. 10, lines 41-46).

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blugerman 5,447,493 in view of Holtorf 6,260,434, in further view of Faeser 4,544,336, and in further view of Wheeldon 4,604,034.

Blugerman in view of Holtorf and Faeser teaches the invention as discussed above, but does not teach the following claimed limitations taught by Wheeldon.

Wheeldon teaches a peristaltic pump apparatus 1 comprising a sensor 18 in communication with rollers 3, operative to detect a rotation speed of the rollers and generate an electric signal in response to the rotation speed (see abstract) to determine the flow rate of the fluid. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Blugerman in view of Holtorf and Faeser, by implementing a rotational speed sensor in order to achieve a more constant flow rate throughout the cycle of operations of the pump (Wheeldon, col. 2, lines 1-7).

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blugerman 5,447,493 in view of Holtorf 6,260,434, in further view of Faeser 4,544,336, and in further view of Wheeldon 4,604,034, and still in further view of Reimels 5,580,347.

Blugerman in view of Holtorf, Faeser, and Wheeldon teaches the invention as discussed above, but does not teach the following claimed limitations taught by Reimels.

Reimels teaches a system for performing surgery comprising a peristaltic pump 30, a foot pedal 14, and a handpiece 10. Reimels further teaches a sound generating device 134 in electrical communication with a sensor 114. Reimels also teaches that the sound generating device 134 is capable of generating a sound with a frequency increasing or decreasing in proportion to a speed of the pump 30 or variable with the fluid flow rate (see col. 10, lines 41-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Blugerman in view of view of Holtorf, Faeser, and Wheeldon by having a sound generating device in communication with a sensor in order to control the fluid discharge of the pump and to provide an indication to the surgeon of the flow rate of the fluid in the system (Reimels, col. 10, lines 41-46).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blugerman 5,447,493 in view of Holtorf 6,260,434, in further view of Faeser 4,544,336, and in further view of Burbank 6,955,655.

Blugerman in view of Holtorf and Faeser teaches the invention as discussed above, but does not teach the following claimed limitations taught by Burbank.

Burbank teaches a peristaltic pump apparatus (see Fig. 5) comprising a flow rate sensor 30 (see Fig. 4) in mechanical communication with flexible tubing 26. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was



made to have modified the apparatus of Blugerman in view of Holtorf and Faeser, by implementing a flow rate sensor in order to measure the flow of working fluid being distributed by the pump.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blugerman 5,447,493 in view of Holtorf 6,260,434, in further view of Faeser 4,544,336, and in further view of Burbank 6,955,655, and still in further view of Reimels 5,580,347.

Blugerman in view of Holtorf, Faeser, and Burbank teaches the invention as discussed above, but does not teach the following claimed limitations taught by Reimels.

Reimels teaches a system for performing surgery comprising a peristaltic pump 30, a foot pedal 14, and a handpiece 10. Reimels further teaches a sound generating device 134 in electrical communication with a sensor 114. Reimels also teaches that the sound generating device 134 is capable of generating a sound with a frequency increasing or decreasing in proportion to a speed of the pump 30 or variable with the fluid flow rate (see col. 10, lines 41-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Blugerman in view of view of Holtorf, Faeser, and Burbank by having a sound generating device in communication with a sensor in order to control the fluid discharge of the pump and to provide an indication to the surgeon of the flow rate of the fluid in the system (Reimels, col. 10, lines 41-46).

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of

structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blugerman 5,447,493 in view of Burbank 6,955,655, and in further view of Reimels 5,580,347.

Blugerman discloses an infiltration apparatus comprising a cannula 14; a flexible tubing 13, connecting to one end of the cannula 14; a peristaltic pump 11 comprising a pathway (see wall 26) for the flexible tubing to extend therehrough and a plurality rollers 25A-C installed along the pathway to direct flow direction of fluid flowing through the flexible tubing 13; a container 12, in fluid communication with the cannula 14 via the flexible tubing 13 extending through the peristaltic pump 11; and a foot pedal 16, connected to the peristaltic pump 11 via a flexible tube 13, the foot pedal 16 being operative to control operation of the peristaltic pump 11. Blugerman further discloses that the peristaltic pump further comprises a rotation mechanism 20 driving the rollers 25A-C to rotate clockwise (see Fig. 2B) or counterclockwise (see Fig. 2A). However, Blugerman does not teach the following claimed limitations taught by Burbank.

Burbank teaches a peristaltic pump apparatus (see Fig. 5) comprising a flow rate sensor 30 (see Fig. 4) in communication with flexible tubing 26. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

have modified the apparatus of Blugerman, by implementing a flow rate sensor in order to measure the flow of working fluid being distributed by the pump.

Blugerman in view of Burbank teaches the invention as discussed above, but does not teach the following claimed limitations taught by Reimels.

Reimels teaches a system for performing surgery comprising a peristaltic pump 30, a foot pedal 14, and a handpiece 10. Reimels further teaches a sound generating device 134 in electrical communication with a sensor 114. Reimels also teaches that the sound generating device 134 receives a signal from the sensor 114 and is capable of generating a sound with a frequency determined by the rate of fluid flow through the peristaltic pump, which would be a result of force on tubing (see col. 10, lines 41-46). Reimels further teaches that the foot pedal 14 is capable of adjusting the flow rate of the fluid by controlling duration of depression applied thereto; wherein the flow rate of the fluid could be proportional to the duration of depression applied to the foot pedal 14. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Blugerman in view of Burbank, by having a sound generating device in communication with a sensor in order to control the fluid discharge of the pump and to provide an indication to the surgeon of the flow rate of the fluid in the system (Reimels, col. 10, lines 41-46).

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469,

15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

12. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references with respect to claim 11 or 12 in further view of Oda 5,810,765.

The references with respect to claims 11 or 12 disclose the invention as discussed above, but does not teach the following claimed limitations taught by Oda.

Oda (Fig. 4) teaches an irrigation/aspiration apparatus comprising a foot pedal 17, an irrigation pump 30, and an irrigation tube 5". Oda further teaches a sensor 31 in mechanical communication with the tubing 5" and the pump 30. Oda also teaches that the sensor is operative to detect the force exerted by the rollers on the tubing 5" and output an electrical signal (see col. 5, lines 57-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus as discussed above, by using the sensor to detect the force exerted by the rollers in order to control the fluid discharge of the pump (Oda, col. 5, lines 57-67).

13. Claims 15-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardineer 4,674,962 in view of Burbank 6,955,655, and in further view of Reimels 5,580,347.

Gardineer discloses a peristaltic pump comprising a headstock 16, which comprises: a pathway (see inner wall of 16); a plurality of rollers 22 installed along the pathway, the rollers 22 being fabricated from electrically insulative materials (i.e. plastic,

inherently insulative; see col. 2, lines 24-25); and a rotation mechanism 14 capable of driving the rollers 22 clockwise or counterclockwise. Gardineer further discloses a motor 12 to drive the rotation mechanism 14. However, Gardineer does not teach the following claimed limitations taught by Burbank.

Burbank teaches a peristaltic pump apparatus (see Fig. 5) comprising a pathway (see underside of 56) and a flow sensor 30 (see 30 in communication with outlet tube 26 in Fig. 4) in communication with rollers (see rollers contacting the tubes in Fig. 5 and 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Gardineer, by implementing a flow sensor in order to measure the flow of working fluid being distributed by the pump.

Gardineer in view of Burbank teaches the invention as discussed above, but does not teach the following claimed limitations taught by Reimels.

Reimels teaches a system for performing surgery comprising a peristaltic pump 30, a foot pedal 14, and a handpiece 10. Reimels further teaches a sound generating device 134 in electrical communication with a sensor 114. Reimels also teaches that the sound generating device 134 is capable of receiving an electric signal and generating a sound with a frequency in response to the electric signal, for example a sequence of beeps in accordance to the speed of the pump 30 or variable with the fluid flow rate (see col. 10, lines 41-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Gardineer in view of Burbank, by having a sound generating device in communication

with a sensor in order to provide an indication to the surgeon of the flow rate of the fluid in the system (Reimels, col. 10, lines 41-46).

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

14. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardineer 4,674,962 in view of Wheeldon 4,604,034, and in further view of Reimels 5,580,347.

Gardineer discloses a peristaltic pump comprising a headstock 16, which comprises: a pathway (see inner wall of 16); a plurality of rollers 22 installed along the pathway, the rollers 22 being fabricated from electrically insulative materials (i.e. plastic, inherently insulative; see col. 2, lines 24-25); and a rotation mechanism 14 capable of driving the rollers 22 clockwise or counterclockwise. Gardineer further discloses a motor 12 to drive the rotation mechanism 14. However, Gardineer does not teach the following claimed limitations taught by Wheeldon.

Wheeldon teaches a peristaltic pump apparatus 1 comprising a sensor 18 in communication with rollers 3, operative to detect a rotation speed of the rollers and generate an electric signal in response to the rotation speed (see abstract). Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Gardineer, by implementing a rotational speed sensor in order to achieve a more constant flow rate throughout the cycle of operations of the pump (Wheeldon, col. 2, lines 1-7).

Gardineer in view of Wheeldon teaches the invention as discussed above, but does not teach the following claimed limitations taught by Reimels.

Reimels teaches a system for performing surgery comprising a peristaltic pump 30, a foot pedal 14, and a handpiece 10. Reimels further teaches a sound generating device 134 in electrical communication with a sensor 114. Reimels also teaches that the sound generating device 134 is capable of receiving an electric signal and generating a sound with a frequency in response to the electric signal, for example a sequence of beeps in accordance to the speed of the pump 30 or variable with the fluid flow rate (see col. 10, lines 41-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apparatus of Gardineer in view of Wheeldon, by having a sound generating device in communication with a sensor in order to provide an indication to the surgeon of the flow rate of the fluid in the system (Reimels, col. 10, lines 41-46).

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of

performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

### ***Response to Arguments***

15. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

16. In reference to claims 13 and 14: on page 10 of Applicant's response to the Non Final rejection, Applicant states that claims 13 and 14 are dependant upon claim 12. However, this is incorrect. Claims 13 and 14 are actually dependant on claim 11 (claim 14 is dependant upon 13). Examiner believes this to be a typographical error, but nonetheless has rejected both claims 13 and 14 with respect to claim 11 or 12 (see above). Therefore, claims 13 and 14 stand rejected regardless of their dependency.

### ***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

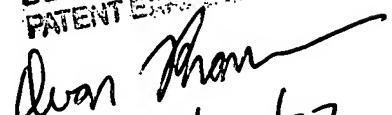
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Bertheaud whose telephone number is (571) 272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
PJB

DEVON C. KRAMER  
PATENT EXAMINER

  
12/20/07